

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOHN WESLEY HORN,

Plaintiff,

V.

GREGORY JONES,

Defendant.

Case No. 3:21-cv-05244-RJB-TLF
ORDER

This matter comes before the Court on plaintiff's motion to file an amended complaint. Dkt. 8.

Plaintiff, proceeding *pro se* and *in forma pauperis*, initiated this action on April 5, 2021. Dkt. 1. The Court directed service of plaintiff's original complaint on April 13, 2021 (Dkt. 6) and defendant waived service and filed a notice of appearance on May 6, 2021 (Dkts. 9, 10). The deadline to file an answer has not yet passed, and no answer has yet been filed.

"A party may amend its pleading once as a matter of course within . . . 21 days after service of a responsive pleading." Fed. R. Civ. P. 15(a). *See also Mayle v. Felix*, 545 U.S. 644, 665-66 (2005) (Plaintiff's opportunity to amend as a matter of course, without permission of the Court, exists within 21 days of when the responsive pleading is served). Because no responsive pleading has been filed, plaintiff is entitled to amend his complaint as a matter of course.

1 IT IS THEREFORE ORDERED as follows:

2 1. Plaintiff's motion to file an amended complaint (Dkt. 8) is GRANTED; and

3 2. The Clerk is directed to docket plaintiff's proposed amended complaint (Dkt.

4 8-2), which shall be the operative complaint in this matter.

5 Dated this 18th day of May, 2021.

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9 Theresa L. Fricke
United States Magistrate Judge